



FH
[REDACTED]

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

BCS/146506

PRELIMINARY RECITALS

Pursuant to a petition filed January 11, 2013, under Wis. Stat. § 49.45(5)(a), to review a decision by the Milwaukee Enrollment Services in regard to Medical Assistance, a hearing was held on March 06, 2013, at Milwaukee, Wisconsin.

The issue for determination is whether the agency correctly imposed a restricted re-enrollment period for Petitioner's BadgerCare+ eligibility for failing to pay a required premium.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

Respondent:

Department of Health Services
1 West Wilson Street
Madison, Wisconsin 53703

By: Katherine May

Milwaukee Enrollment Services
1220 W Vliet St
Milwaukee, WI 53205

ADMINISTRATIVE LAW JUDGE:

David D. Fleming
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Milwaukee County.
2. Petitioner was sent a notice dated October 4, 2012 that informed her that as of November 1, 2012 she would pay a premium in the amount of \$130 in order to maintain BadgerCare+ eligibility for herself. There was no premium for her children. This notice was sent to Petitioner at the above address.
3. Agency records indicate that a premium notice dated October 19, 2012 was sent to Petitioner.
4. Agency records indicate that a premium notice dated November 19, 2012 was sent to Petitioner.

5. The agency imposed a restrictive reenrollment of 12 months of Petitioner for failing to pay her BadgerCare+ premium.
6. A notice dated December 10, 2012 was sent to Petitioner that informed her that as of January 1, 2013 her badger care plus benefits were being discontinued for failing to pay her BadgerCare+ premium. That notice informed Petitioner, however, that she can pay the premium by the end of the next month, i.e. January 2013 in order to avoid the restrictive reenrollment period.
7. Petitioner attempted to pay her November and December premiums on or about January 11, 2013. She presented a money order to the agency in the amount of \$260 but the agency declined to take because Petitioner was already in the restrictive reenrollment period.

DISCUSSION

Petitioner had been receiving medical assistance under BadgerCare Plus, which covers children under 19 and their parents. *Wis. Stat. § 49.665*. The county agency ended her benefits as of January 1, 2013 because she failed to pay her premium for that month of coverage. The program's rules require recipients to pay a premium by "the 10th of the month prior to the month for which the premium is required." *Wis. Admin. Code, § DHS 103.085(1)(d)2*.

If a person fails to pay the premium by the end of the month for which it is due, benefits end on the last day of that month. *Wis. Admin. Code § DHS 103.085(1)(d)3*. In addition, those whose benefits end because they did not pay a premium cannot reenroll for 12 months (the period is six months for their children) unless they did not pay because of circumstances beyond their control and "all past due premiums have been paid in full." *Wis. Admin. Code, § DHS 103.085(3)(b)1*; *BadgerCare Plus Handbook, 19.11*. Circumstances beyond the persons control include:

- a. A problem with an electronic funds transfer from a bank account to the BadgerCare program.
- b. A problem with an employer's wage withholding.
- c. An administrative error in processing the premium.
- d. Any other circumstance affecting payment of the premium which the department determines is beyond the group's control, but not including insufficient funds.

Wis. Admin. Code, § DHS 103.085(3)(b)1.

If a person pays all of the premium due for the entire family by the end of the month after it is due, the restrictive reenrollment is lifted. *BadgerCare Plus Handbook, §19.8.1*.

In this case Petitioner did not pay her November 2012 BadgerCare+ premium in the month of November 2012. She was given notice to pay a premium in the amount of \$130.00 for the month of November 2012. That notice came via a Notice of Decision as well as a payment coupon. She did not pay a premium and should, therefore, have been placed in the restrictive reenrollment effective December 1, 2012. She had until the end of December 2012 to pay that November 2012 premium but did not do so until January 2013. It is also worth noting that she received a payment coupon in November 2012 for December 2012 that she did not pay. There is nothing here to suggest that Petitioner's failure to pay falls within the good cause exceptions noted above. I am, therefore, sustaining the discontinuance of Petitioner's BadgerCare+ eligibility and the imposition of a restrictive re-enrollment period. I do note, however, that the agency should post that restrictive enrollment period earlier than it did; specifically, it should have been imposed as of December 1, 2012. The agency will have to adjust the records reflect that.

CONCLUSIONS OF LAW

1. That the agency correctly ended Petitioner's BadgerCare+ benefits and restricted her right to reenroll because circumstances beyond her control did not cause her to fail to pay her premium for November 2012 by the end of December 2012.
2. That the agency did not start Petitioner's restrictive reenrollment when it should have; it did not begin until January 2013 but should have started December 1, 2012.

THEREFORE, it is

ORDERED

That this appeal remanded to the agency with instructions to take the steps necessary to be sure that Petitioner's restrictive reenrollment begins December 1, 2012 rather than January 1, 2013. The practical effect of this is to permit Petitioner's reenrollment in the BadgerCare+ program effective December 1, 2013. This must be done within 10 days of the date of this decision.

In all other respects this appeal is dismissed.

REQUEST FOR A REHEARING

This is a final administrative decision. If you think this decision is based on a serious mistake in the facts or the law, you may request a rehearing. You may also ask for a rehearing if you have found new evidence which would change the decision. Your request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and tell why you did not have it at your first hearing. If you do not explain these things, your request will have to be denied.

To ask for a rehearing, send a written request to the Division of Hearings and Appeals, P.O. Box 7875, Madison, WI 53707-7875. Send a copy of your request to the other people named in this decision as "PARTIES IN INTEREST." Your request for a rehearing must be received no later than 20 days after the date of the decision. Late requests cannot be granted.

The process for asking for a rehearing is in Wis. Stat. § 227.49. A copy of the statutes can be found at your local library or courthouse.

APPEAL TO COURT

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be served and filed with the appropriate court no more than 30 days after the date of this hearing decision (or 30 days after a denial of rehearing, if you ask for one).

For purposes of appeal to circuit court, the Respondent in this matter is the Department of Health Services. After filing the appeal with the appropriate court, it must be served on the Secretary of that Department, either personally or by certified mail. The address of the Department is: 1 West Wilson Street, Madison, Wisconsin 53703. A copy should also be sent to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400.

The appeal must also be served on the other "PARTIES IN INTEREST" named in this decision. The process for appeals to the Circuit Court is in Wis. Stat. §§ 227.52 and 227.53.

Given under my hand at the City of Milwaukee,
Wisconsin, this 29th day of March, 2013

\sDavid D. Fleming
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

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The preceding decision was sent to the following parties on March 29, 2013.

Milwaukee Enrollment Services
Division of Health Care Access and Accountability